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8 **IN THE UNITED STATES DISTRICT COURT FOR THE**  
9 **NORTHERN DISTRICT OF CALIFORNIA**  
10 **SAN FRANCISCO DIVISION**

11 **ANTHONY AQUILA,**

12 **Plaintiff and**

13 **v.**

14 **UNITED STATES OF AMERICA,**

15 **Defendant**  
16

)  
) **No. C-04-0443-FMS**  
)  
)

) **APPLICATION TO CONTINUE**  
) **CASE MANAGEMENT**  
) **CONFERENCE AND ORDER**  
)

17 This case is set for a Case Management Conference on May 7, 2004. The Complaint was filed  
18 February 8, 2004 and the government's answer is due May 3, 2004. The case involves the assessment  
19 of so-called 100% penalty taxes for the failure of a corporation to pay over employment taxes due the  
20 government. The government intends to file a counterclaim against another person who was assessed  
21 the same penalty taxes. The law provides that more than one person can be liable for the same taxes  
22 but the government can only collect once. Accordingly, we request the Court to continue the Case  
23 Management Conference for 60 days to allow the government an opportunity to serve the counterclaim  
24 on the additional defendant so that all parties can participate in the first Case Management Conference.  
25 Plaintiff's counsel has no objection to this request.

26 Respectfully submitted,

27 KEVIN V. RYAN  
United States Attorney

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JAY R. WEILL  
Assistant United States Attorney  
Chief, Tax Division

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**ORDER**

Upon application of the United States the Case Management Conference is continued to July 9, 2004 at 1:30 p.m.

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FERN M. SMITH  
United States District Judge